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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/935,116	09/22/1997	DAVID W. DEATON	26656-0238	8230
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NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304			EXAMINER ALVAREZ, RAQUEL	
			ART UNIT 3622	PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 08/935,116
Filing Date: September 22, 1997
Appellant(s): DEATON, DAVID W.

MAILED

DEC 12 2006

GROUP 3600

Richard A. Neifeld
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/7/2006 appealing from the Office action
mailed 2/17/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Nichtberger et al. (4,882,675 hereinafter Nichtberger).

With respect to claims 8-15, Nichtberger teaches a system for accumulating customer transaction data at the point of sale in a retail establishment and for effectuating customer promotion (abstract). A terminal for entering unique customer identification codes from customer identification presented at the point of sale in a retail transaction (col. 17, lines 30-48); means for allowing entry of customer transaction data (col. 17, lines 49-60); a processor and a memory responsive to said terminal and said means allowing entry for creating a database for a plurality of the store's customers' transaction data from prior shopping visits, such that data regarding individual customer's prior transactions are stored in association with said individual customer's unique identification code (col. 12, lines 16-32); circuitry responsive to said processor, memory, and a database for generating a customer information response signal at the point of sale during said individual customer's transaction in said retail establishment upon detection of a unique identification code of said individual customer (col. 11, lines 46-50 and col. 18, lines 49-61); said signal being related to said individual customer's transaction data in shopping visits prior to the current shopping visit (col. 17, lines 49-61); and said signal providing information at said point of sale terminal derived from said database and useful for effectuating targeted customer promotion (col. 17, lines 49-61).

Claim 16 differs from claims 8-15 in that it further recites that the entering step into a point-of-sale terminal is an account number from a payment instrument presented by a customer. Nichtberger teaches that a credit card with a magnetic stripe can be used to activate the system (col. 19, lines 63 to col. 20, lines 1-7).

(10) Response to Argument

Appellant argues that Nichtberger's CDR 20 is not a point of sale terminal and is not at a point of sale location. The Examiner wants to point out that the Examiner never cited CDR 20 for generating a customer information response signal at the point of sale during said individual customer's transaction in said retail establishment. The Examiner wants to point out to col. 17, lines 29-47, which teaches **"At the checkout counter, the customer presents his special card ...before the checkout process begins.. the special card also bears the customer number in UPC bar code format, it can be read automatically by the store's scanning system....The UPC codes of items customer purchased are scanned or key-entered"** As can be seen by above, Nichtberger clearly teaches that the customer information is entered and from the information entered by the customer's card at the point of sale (checkout) during the customer's transaction at a retail establishment, the corresponding list of coupons are presented or displayed.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the customer need take no action he or she otherwise would not take) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

Art Unit: 3622

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant argues that Nichtberger's system doesn't teach automatically responding to a customer purchases of goods in a store. The Examiner disagrees with Appellant because Nichtberger teaches that the coupons displayed are based on previous transactions (col. 18, lines 20-41).

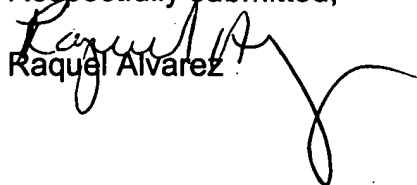
Appellant argues that Nichtberger doesn't teach a signal transmitted to the point of sale that is related to the customer's transaction data in shopping visits prior to the current shopping visit. The Examiner disagrees with Appellant because Nichtberger teaches that based on the customer's prior or previous purchases, buying habits of the users, etc. is used to target new offers or coupons. The redemption and buying habits are recorded in database 420 and is used by processor operations center 16 and passed on to the retailers and manufacturers in order for them to analyze buying habits, coupons redemptions and demographic (col. 18, lines 20-41).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Raquel Alvarez

Application/Control Number: 08/935,116
Art Unit: 3622

Page 6

Conferees:

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